

REMARKS

In response to a previous Requirement for Restriction mailed on August 30, 2004, Applicant elected to prosecute claims 1-15 and 26-35. In the most recent Office Action, the Examiner has issued a second Requirement for Restriction. Specifically, the Examiner stated:

This application contains claims directed to the following patentably distinct species of the claimed invention: species I: claims 1-10 and 26-35 and species II: claims 11-15.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Office Action, page 2, lines 4-9

Applicant respectfully traverses the Examiner's Requirement for Restriction. Specifically, Applicant draws the Examiner's attention to independent claims 1 and 11. Independent claim 1 is clearly generic to independent claim 11, because claim 11 recites a device that employs an access transistor that comprises features identical to features of the vertical tunneling transistor of claim 1. Accordingly, Applicant is entitled to the initial examination of the previously elected claims, i.e., 1-15 and 26-35.

However, in accordance with Applicant's duty to elect even though a traverse has been made, Applicant elects to prosecute claims 1-10 and 26-35.

Conclusion

If the Examiner believes that a telephonic interview will help speed the above-referenced application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: December 1, 2004

A handwritten signature in black ink, appearing to read "David Hoffman", written over a horizontal line.

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